

Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

RECEIVED

NOV 13 2000

FCC MAIL ROOM

In the Matter of )  
)  
SOUTHERN BROADCASTING & )  
INVESTMENTS, WBTY(FM) )  
Homerville, Georgia )  
)  
For a Change in Frequency )  
)

MM Docket No. 90-214

TO: Chief, Mass Media Bureau

**OPPOSITION TO "EMERGENCY REQUEST FOR ORDER TO REQUIRE  
STATION WBTY TO CHANGE CHANNELS OR TO DELETE CONDITION  
ON CONSTRUCTION PERMIT AND/OR SPECIAL TEMPORARY AUTHORITY"**

Southern Broadcasting & Investments, Inc. ("Southern"), by its attorney, hereby respectfully opposes the "Emergency Request for Order to Require Station WBTY to Change Channels or to Delete Condition on Construction Permit and/or Special Temporary Authority" ("Emergency Request"), filed in this proceeding by Jesup Broadcasting Corp. ("Jesup") on March 28, 2000. In opposition thereto it is alleged:

1. On March 28, 2000, Jesup filed an Emergency Request for Order to Require Station WBTY to Change Channels or to Delete Condition on Construction permit and/or Special Temporary Authority. Oppositions to the Emergency Request were due for filing in April of 2000,

but Southern was not represented by counsel at that time and the owners of Southern thought that the Emergency Request was simply a letter to which no response was required. Southern has now engaged legal counsel and has been informed that a full response should be filed. Southern respectfully requests the Commission to accept the response even though it is late filed.

2. On April 30, 1993, the Chief, Policy and Rules Division, released a Memorandum Opinion and Order in Docket No. 90-214, published at 8 FCC Rcd 2953 ("Change Order"). In the Change Order, the Chief, Policy and Rules Division, granted a petition filed by Lakeland Broadcasters, Inc. ("Lakeland"), requesting an upgrade in the facilities of its FM broadcast station at Lakeland, Georgia, from operation on channel 290A to operation on channel 290C3. The upgrade required that Channel 254A be substituted for Channel 288A at Homerville, Georgia. Lakeland promised that if the upgrade was approved it would fully reimburse Southern for the legitimate and prudent costs associated with the change of channels. Change Order at para. 13. Based upon that promise, the Commission staff approved the Lakeland upgrade and substituted Channel 254A for Channel 288A at Homerville, Georgia.

3. Homerville, Georgia, is a community of only 2560 persons (1990 Census). It is located in Clinch County, which has a population of 6160 persons. Station WBTY(FM) is operated as a local station, serving the community needs of Homerville and the sparsely populated area of Clinch County. All of Southern's stock is owned by Mr. and Mrs. Jim Strickland and the station is operated as a family business, affording a modest living to the Stricklands and other family members.

4. The Stricklands have no quarrel with Jesup. They are more than willing to promptly change the operating frequency of Station WBTY to Channel 254A, as contemplated by

the Change Order. That change, however, will not be inexpensive, because it will require the installation of a new three bay antenna. The Stricklands expect the licensee of the Lakeland station to pay for that antenna and also to pay the other reasonable costs of making the change. However, they have not been able to make arrangements with the licensee of the Lakeland station to do that. Indeed, counsel for Southern attempted to reach the licensee of that station by telephone just yesterday, but was unable to do so.<sup>1</sup>

5. Even if the Stricklands were able to afford the costs of a new antenna and the other costs associated with the change of frequency, it would be grossly unfair to require the Stricklands to “front” those costs. The licensee of the Lakeland station has benefitted from an upgrade in the facilities of that station from Class A facilities to Class C3 facilities. Jesup, the licensee of Station WIFO(FM), Jesup, Georgia, will likewise benefit from an upgrade in the facilities of its station from Class A facilities to Class C3 facilities. The Stricklands on the other hand will achieve absolutely no benefit, whatsoever, from a change in frequency of Station WBTY. It is and will continue to be a small Class A FM broadcast station.

6. The Stricklands have no quarrel with Jesup. They respectfully submit that, if Jesup has a quarrel with anybody, it is with Lakeland. Lakeland should fulfill the promises previously made to the Commission and make arrangements to reimburse the Stricklands for the costs associated with the change of frequency at Homerville. That would solve Jesup’s problems.

---

<sup>1</sup>The Commission’s database shows that the Lakeland station has the call letters WVGA, Facility ID No. 36379; that it is licensed to Albert Leon Brooks; and that it is currently off the air. Counsel, however, was able to obtain a telephone number for the station from information and spoke with a station employee who said that he would have Mr. Brooks call counsel. Mr. Brooks, however, never did so.

7. Now that the Stricklands have engaged legal counsel, counsel intends to pursue the licensee of the Lakeland station fully and vigorously to collect the required funds to implement the change of frequency at Homerville. Hopefully, counsel's efforts will be successful and the change of frequency will be accomplished in short order. In the meantime, however, because of the substantial electrical interference which would be caused by the implementation of Jesup's Class C3 facilities on a short-spaced, co-channel basis to Homerville, the Stricklands respectfully oppose Jesup's request to implement those facilities prior to the time when the change of frequency at Homerville is implemented.

November 9, 2000

Law Office of  
LAUREN A. COLBY  
10 E. Fourth Street  
P.O. Box 113  
Frederick, MD 21705-0113

Respectfully submitted,

SOUTHERN BROADCASTING &  
INVESTMENTS, INC.

By 

Lauren A. Colby  
Its Attorney

CERTIFICATE OF SERVICE

I, Traci Maust, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 9<sup>th</sup> day of November, 2000, to the offices of the following:

Peter H. Doyle, Esq.  
F.C.C.  
The Portals  
445 Twelfth Street, S.W.  
Room 2-A267  
Washington, D.C. 20554

Mr. Glen Greisman  
F.C.C.  
The Portals  
445 Twelfth Street, S.W.  
Room 2-A110  
Washington, D.C. 20554

Ms. Helen McLean  
F.C.C.  
The Portals  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Mr. Albert Leon Brooks  
Station WVGA  
1707-A Al Brooks Drive  
Valdosta, GA 31601

Gary S. Smithwick, Esq.  
Smithwick & Belendiuk  
1990 M Street, N.W.  
Suite 510  
Washington, D.C. 20036

  
Traci Maust